

### **REMARKS**

Claims 24-26 and 40 have been canceled. Claims 1-5, 7, 10-15, 19-20, 23, 27-34, 39, 41-43 and 47-49 are currently pending. Applicants reserve the right to pursue the original and other claims in this and other applications. Applicants respectfully request reconsideration in light of the following remarks.

Claims 1-5, 7, 10-15, 19, 20, 23, 25, 32-34, 39, 41-43 and 47-49 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Parker et al. (US Patent No. 6,302,122) ("Parker") in view of McClain (US Patent No. 5,664,593) ("McClain"). This rejection is respectfully traversed and reconsideration is respectfully requested.

Claim 1 recites a "booth for accommodating a person" including *inter alia* a "filtering means for filtering the air within the booth, a "flow means for causing air to move in a downward air flow within the booth, the downward airflow defining a predetermined volume within the booth" and a "projecting means for projecting a product into at least some of the booth volume and onto a body of a person positioned in the booth." The flow means includes a "first plenum of positive pressure located in the top portion of the booth, and a second plenum of negative pressure located in the base of the booth." The "first and second plenums [are] connected to one another via a duct." The filtering means includes a "first filter for filtering wet particulate material and a second filter for filtering dry particulate material, wherein the first filter is positioned within the duct in a lower portion of the duct associated with the second plenum ... and the second filter is associated with one or more input grills" associated with the first plenum.

An important feature of the claimed invention is that air flows downwards within the booth from the first plenum, which contains air at a pressure above ambient pressure, to the second plenum, which contains air at a pressure below ambient pressure.

This feature is advantageous because it provides a uniform downward flow of air from the first plenum to the second plenum during operation of the booth. Since the booth is intended to be used to apply a product to the person's body, this downward air flow results in any excess

product (which does not adhere to the body of the person) being drawn downwards into the second plenum. This, in turn, results in fewer particles of the product remaining in the atmosphere and therefore fewer particles available to be inhaled by the person inside the booth or by the booth operator.

A further advantage of this feature is that it ensures that air flows into the booth through any parts of the booth that are open to its surroundings. This prevents or minimizes any outward flow of particles from the booth volume during the application of the product and ensures that all particles generated within the booth are drawn into the second plenum.

The downward air flow also solves the problem of uneven application of the product to the person's body, since the downward air flow assists in distributing the product more evenly over the person's body. This also ensures that any larger particles of product (which may result in an uneven distribution of the product) are carried off the skin of the person in the downward air flow.

Another important feature of the claimed invention is that the filtering means includes two filters, a first filter for filtering wet particulate material and a second filter for filtering dry particulate material. Each of these two filters performs distinct and specific functions. The first filter (located in a lower part of the duct) traps excess spray not adhering to the body of the person being sprayed in the booth. The second filter (associated with the one or more input grills) serves as an additional filter for filtering air that is being recirculated into the booth and to filter air entering the booth for the first time.

This feature is advantageous because the filtering means serves to filter air containing excess spray at least twice, first to remove wet particulate material and second to remove dry particulate material and also to filter air entering the booth (whether recirculated air or fresh air). This results in substantially all of the product which is sprayed onto the person in the booth (but that does not adhere to the skin of the person) being trapped by the filtering means. This in turn eliminates the need for there to be any external connections to the booth for drainage purposes which makes the booth self-contained and more convenient for the operator.

Parker relates to a booth including *inter alia* an arm 50 with a plurality of nozzles 51 thereon wherein the arm traverses within the booth to spray coat the body of a person in the booth, and an evacuation fan 88 which draws over-spray laden air from an exhaust port 48 of the booth and through an air filter 90.

The Examiner states that Parker discloses a base portion A forming a plenum C of negative pressure. Office Action, pgs. 3-4. However, Applicants respectfully submit that while the exhaust port 48 of Parker may be situated beneath a grated floor, this underfloor region should not be considered to be a plenum. In the context of the claimed invention, a plenum is a separate space provided for air circulation as part of the flow means, in which air is held at a particular pressure. Even if the underfloor region of Parker could be considered to be a plenum, Applicant respectfully disagrees with the Examiner's assertion that this plenum C is of negative pressure. There is no mention or suggestion in Parker that this underfloor region is maintained at a pressure below ambient pressure. Thus, Parker does not disclose a "plenum of negative pressure located in the base of the booth."

The Examiner further relies on the air filter 90 of Parker as disclosing the filtering means of the claimed invention. However, as previously discussed, the filtering means of the present invention includes a "first filter for filtering wet particulate material and a second filter for filtering dry particulate material," with the filtered air being recirculated through the booth by means of a second plenum in the base of the booth, a first plenum in the top portion of the booth and a duct connecting the two plenums. Parker, however, includes no disclosure of a booth including more than one filter, let alone a "first filter for filtering a wet particulate material" or a "second filter for filtering dry particulate material." There would also be no motivation to modify the booth of Parker to include the filtering means of the claimed invention (i.e., to include a first filter and a second filter), since there is no means to circulate air in the booth and, therefore, it would not make sense to filter the air twice. Thus, Applicants respectfully submit that Parker also does not disclose, or render obvious, the filtering means of the claimed invention.

The Office Action also does not state which part of Parker allegedly discloses the claimed “plenum of positive pressure located in the top portion of the booth,” which is also an important feature of the flow means of the claimed invention, as discussed above.

The Office Action admits (pg. 4) that Parker does not disclose a tanning booth including a duct providing the closed recirculation system. The Office Action relies on McClain as remedying the deficiencies of Parker as to the claimed invention. As previously discussed, Parker also not disclose a plenum of negative pressure in the base of the booth, a plenum of positive pressure in the top portion of the booth or a filtering means for filtering air within the booth.

McClain relates to an apparatus for applying suntan lotion to the body of a person including *inter alia* a cylindrical enclosure 6, a recirculating fan 18 and a tube 48 which serves to spray an atomized product into the booth through spray nozzles 54, 58, 60.

The Office Action relies on tube 48 of McClain as disclosing the closed recirculation system for recirculating air within the booth. Office Action, pg. 5. However, the tube 48 of McClain serves only to distribute the atomized lotion and inject this atomized lotion into the enclosure 6 through the spray outlets 54, 58, 60. McClain, col. 3, lines 51-59. There is no disclosure or suggestion that the tube 48 of McClain could serve to recirculate air within the booth.

Additionally, McClain is related to an entirely different problem than Parker and thus one skilled in the art would not be motivated to make this combination. The Office Action states that it would be obvious to modify the booth of Parker with the duct of McClain in order to avoid loss of lotion. However, one skilled in the art would not be motivated to make this combination; the booth of McClain does not enclose the whole body of the person to whom the product is to be applied.

Even if the disclosures of Parker and McClain are combinable (which Applicants do not concede), the combination still does not disclose the claimed invention since the alleged duct (tube 48) merely distributes the lotion and does not recirculate air within the booth.

The Office Action further admits that the combination of Parker and McClain does not “disclose the tanning booth comprising the second plenum located on top of the booth, through which the lotion is dispensed, and the second filter.” Office Action, pg. 5. However, Applicants note that this is an incorrect statement of the claimed invention. In the claimed invention, lotion is not dispensed through the second plenum located on top of the booth. Instead, the product is dispensed by the projecting means into at least some of the booth volume from within the booth. The Examiner goes on to assert that it would be obvious to a skilled person to add the feature of another plenum located on the top of the booth, to the combined teachings of Parker and McClain, on the basis that the addition of this feature is the *mere duplication of essential working parts*.

Applicants respectfully disagree that the addition of another plenum located on the top of the booth can be justified on the basis that the addition of this feature is the *mere duplication of essential working parts*. First of all, as previously discussed, Parker does not disclose the plenum in the base of the booth, which is maintained at a pressure below ambient pressure. In addition, Applicants disagree that the two plenums of the claimed invention are a *mere duplication of essential working parts*. In the claimed invention, the first plenum contains air which has been pressurized to a pressure in excess of ambient pressure, which is then directed through the input grills and downwards over the body of the person in the booth. The air in the second plenum of the claimed invention, on the other hand, is depressurized to a pressure less than ambient pressure and is then drawn through the duct, is filtered and recirculated to the first plenum. Additionally, the first plenum supplies a lower volume of air into the booth than the second plenum extracts from the booth volume. This results in air flowing into the booth through any parts of the booth that are open to its surroundings. Thus, the first plenum and the second plenum of the claimed invention serve very different purposes and have different functions. Therefore, the addition of a second plenum cannot be regarded as a *mere duplication of essential working parts*, as asserted by the Examiner.

Therefore, for at least these reasons, even if the teachings of Parker and McClain are combined, the claimed invention is not disclosed. Accordingly, claim 1 is allowable over the cited combination. Claim 41 contains similar limitations as claim 1 and is allowable for similar reasons. Claims 2-5, 7, 10-15, 19, 20, 23, 32-34 and 39 depend from claim 1 and are allowable along with

claim 1. Claims 42, 43 and 47-49 depend from claim 41 and are allowable along with claim 41. Applicants respectfully request that the rejection of claims 1-5, 7, 10-15, 19, 20, 23, 32-34, 39, 41-43 and 47-49 be withdrawn and the claims allowed.

Claims 24, 27-31 and 40 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Parker in view of McClain and further in view of Zieger (U.S. Patent No. 3,979,096). Claims 24 and 40 have been canceled; thus, the rejection as to these claims is moot. As to the other claims, this rejection is respectfully traversed and reconsideration is respectfully requested.

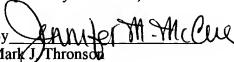
Claims 27-31 depend from claim 1, which is allowable over the Parker/McClain combination for at least the reasons discussed above. Zieger is relied upon as disclosing the shower head, and does not remedy the deficiencies of the Parker/McClain combination as to claim 1. Thus, claim 1, along with claims 27-31, is allowable over the cited combination. Applicants respectfully request that the rejection of claims 27-31 be withdrawn and the claims allowed.

Claims 26 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Parker in view of McClain and Zieger and further in view of Turner et al. (U.S. Patent No. 4,611,762) ("Turner"). Claim 26 has been canceled; therefore this rejection is moot.

In view of the above amendment, Applicants believe the pending application is in condition for allowance.

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Respectfully submitted,

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